



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2007

## Standard Form of Agreement Between Owner and Architect

B101-2007 v:3 (10-15-09) Construction Manager

AGREEMENT made as of the 31<sup>st</sup> day of ~~November~~ <sup>December</sup> in the year Two Thousand Nine (2009)

(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:  
(Name, legal status, address and other information)

City of Frisco  
6101 Frisco Square Blvd.  
5th Floor  
Frisco, TX 75034

and the Architect:  
(Name, legal status, address and other information)

BOKA Powell, LLC  
8070 Park Lane #300  
Dallas, TX 75231-6439  
Telephone Number: 972-701-9000

for the following Project:  
(Name, location and detailed description)

Frisco 870008 0565 Beal Building Phase 2  
Located at the SE corner of North Dallas Parkway frontage and Cotton Gin Road, Frisco, Texas.

A multi-phase design and planning project for the Beal Building Modifications/Master Planning - Phase 2. Phase 2 includes: (i) a 50,000 sf addition to be divided into separate functions for Sci-Tech Discovery Center, Black Box Theater and Museum of the American Railroad ("MARR"). A new entrance at the West side of the building will be used as a single new entry to the new area with appropriate signage for tenant identification; and (ii) Master Planning for remainder of the building for exhibition style use (approx 100,000 sf) and provide Master Planning of the existing site encompassing the building and parking for present and future uses.

The Owner and Architect agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

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## EXHIBIT A INITIAL INFORMATION

### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

*(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)*

| See Exhibit A, attached hereto and incorporated herein for all purposes.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

.2 Substantial Completion date:

| Substantial completion date to be determined under Owner/Contractor agreement in consultation with Architect.

| § 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation, which adjustments shall be submitted in writing by Architect and approved by Owner prior to becoming effective.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project, which representative shall be acceptable to Owner.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. The Architect shall, at its own expense, procure, pay for and maintain during the term of this Agreement the following insurance written by companies approved by the State of Texas and acceptable to Owner. The Architect shall furnish to the Owner certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, and expiration dates in compliance with all applicable required provisions.

.1 General Liability: Commercial General Liability insurance, including, but not limited to Premises/Operations, Personal & Advertising Injury, Products/Completed Operations, Independent Contractors and Contractual Liability, with minimum combined single limits of \$1,000,000.00 per occurrence, \$2,000,000.00 Products/Completed Operations Aggregate, and \$2,000,000.00 General Aggregate. Coverage must be written on an occurrence form. The General Aggregate shall apply on a per project basis.

.2 Automobile Liability: Business Automobile Liability insurance covering owned, hired and non-owned vehicles, with a minimum combined bodily injury and property damage limit of \$1,000,000.00 per occurrence.

.3

*(Paragraphs deleted)*

Worker's Compensation: Worker's Compensation insurance with statutory limits; and Employer's Liability coverage with minimum limits for bodily injury: (a) by accident, \$500,000.00 each accident, and (b) by disease, \$500,000.00 per employee, with a per policy aggregate of \$500,000.00.

.4 Professional Liability: Professional Liability insurance to provide coverage against any claim which the Architect and all consultants engaged or employed by the Architect become legally obligated to pay as damages arising out of the performance of professional services caused by error, omission or negligent act with minimum limits of \$2,000,000.00 per claim, \$2,000,000.00 annual aggregate.

If the insurance is written on a claims-made form, coverage shall be continuous (by renewal or extended reporting period) for not less than thirty-six (36) months following completion of this Agreement and acceptance by Owner.

With reference to the foregoing required insurance, the Architect shall endorse applicable insurance policies as follows: (1) a waiver of subrogation in favor of Owner, its officials, employees and officers shall be contained in the Workers' Compensation insurance policy; (2) the Owner, its officials, employees and officers shall be named as additional insureds on the Commercial General Liability policy, by using endorsement CG2026 or broader; and (3) all insurance policies shall be endorsed to the effect that Owner will receive at least thirty (30) days notice prior to cancellation, non-renewal, termination, or a material change of the policies. All insurance shall be purchased from an insurance company that meets a financial rating of A- or

better as assigned by A. M. Best Company or equivalent

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary civil, structural, mechanical, and electrical engineering services. Services not set forth in Article 3 are Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Owner's consultants and the Construction Manager. The term "Construction Manager" herein shall mean General Contractor if the Owner proceeds with a lump sum contract rather than a construction manager at risk contract. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's written approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the completion of the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review of each phase (Schematic Design, Design Development, and Construction Documents phases), including completed contract documents, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause (which shall promptly be defined in detail, and submitted in writing to the Owner), be exceeded by the Architect or Owner. With the Owner's written approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

§ 3.1.5 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible, with the assistance of the Owner, for preparation and timely submittal of documents required for approval or recording by all governmental agencies having jurisdiction over the Project, unless otherwise prohibited by law. The application for, and obtaining of, all building permits shall be the responsibility of others. The Architect shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by said governmental agencies measured at the time of completion of construction drawings at no additional charge to the Owner.

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating

environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. Through the Schematic Design Phase, the Architect shall review periodically the progress of the Work with the Owner's Designated Representative and, if requested by Owner, the Construction Manager, if already engaged by Owner such that the Construction Manager will have participated in the development of the design concept. The Schematic Design Documents shall include:

- (1) A conceptual Site Plan, scaled accurately, to depict features of the site, including drives, parking, streets, alleys, easements, finish floor elevation and site contours, location of existing utilities, and the building location indicating proposed sidewalks and other site appurtenances. The site plan shall bear a schedule indicating the acreage of the site, the area of the site proposed for concrete or asphalt paving, the total area of the building, and area of proposed covered walks and overhangs.
- (2) Floor Plan or plans, drawn to scale, indicating the dimensions and net areas of each individual space, labeled as to use, and indicating door swings, window or glassed areas, wall thickness, conceptual casework/millwork and other design features, which require Owner approval. Spaces too small at the plan scale to be adequately examined shall be enlarged and illustrated as necessary. Floor plan sheet shall bear a schedule indicating the gross area of the building, and the square footage allocated to administration, support, circulation, and ancillary. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.
- (3) Exterior Elevations, drawn to scale, proposing the design concept and indicating proposed materials and design features.
- (4) A preliminary code search, indicating the anticipated code requirements governing building, fire, life safety, accessibility, and health which shall be incorporated into the schematic design. At the Architect's option, the Schematic Design Documents may include study models, perspective sketches, electronic modeling or combinations of these media. The Architect shall obtain approval of Schematic Design Documents from Owner before proceeding to Design Development Phase.

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics in developing a design for the Project that is consistent with the Owner's program, schedule and budget for the Cost of the Work.

§ 3.2.5.3 The Architect shall provide the services of professional structural, mechanical, civil, and electrical engineers, qualified by training and experience in their respective fields, as needed, to address the requirements of the Project; shall submit a list of the names of the engineers to be employed by Architect to Owner, in advance, for Owner's review and approval, which approval shall not be unreasonably withheld; and shall require such professional engineers to place their seal, name and signature on the Drawings and Specifications prepared by them. Said Construction Documents shall comply with all applicable laws, statutes, ordinances, codes, rules and regulations currently in effect and as reasonably interpreted. Approval by the Owner shall not constitute approval of the means, techniques or particular material recommended by the Architect for the Project.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1. The Architect and Architect's Consultants shall provide Design Development Documents based on the Schematic Design Documents approved by Owner and updated budget for the Cost of the Work. Through the Design Development Phase, the Architect and Architect's Consultants shall periodically review the progress of design development with the Owner's Representative, and if requested by Owner, the Construction Manager.

The Design Development Documents shall illustrate and describe the refinement of the design of the Project, establishing the scope, relationships, forms, size and appearance of the Project by means of plans, sections, and elevations, typical construction details, and equipment layouts, including mechanical, electrical, plumbing, technology, communication, security, energy management, and all other systems which are included in the Architect's and Architect's Consultants' Scope of Work. The extent of presentation shall be such that all aspects of the design and features, locations of equipment, switching, lighting, door numbers/types, room numbers/finishes, ceiling types/finishes and any other issue which may be incorporated into the Construction Documents shall have been presented to and approved by the Owner.

A complete code review, addressing building, fire, safety, TAS, health, and any or all other code/ordinance requirements shall be included, indicating the Architect's and Architect's Consultants' interpretations as to the code requirements, and the features incorporated into the design that satisfy the requirements.

Site plans shall depict the locations of all site appurtenances, utility connections and routing, drives, walks, yard irrigation, and other features to illustrate to the Owner that essentially all decisions have been made and that decisions of significance will not be required during Construction Document Phase.

Specifications shall be in outline form, and shall describe the materials and methods intended for use within the project, as well as the proposed delivery method, proposed alternate bids, allowances and other significant information, to include the Architectural and Engineering technical specifications sections.

The Architect shall work with the Construction Manager to obtain a detailed cost estimate to determine the final estimated Cost of Work. The Construction Manager may be directed by Owner, from time to time, to update the estimate of the Cost of Work.

Owner shall approve Design Development Documents prior to Architect proceeding with Construction Documents.

*(Paragraph deleted)*

§ 3.3.2 If not provided by the Construction Manager, the Architect shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect shall submit the Design Development documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the approved Design Development Documents, the Architect and Architect's Consultants shall prepare Construction Documents consisting of drawings and specifications setting forth in detail the requirements of the construction of the Project, including, the Work required for the architectural, structural, mechanical, electrical, plumbing, civil and sitework (unless provided by Owner), service-connected equipment, and the necessary general condition of the Agreement. The Architect shall provide the services of professional structural, mechanical, civil (unless provided by Owner), electrical, as well as landscape architects, qualified by training and experience in their respective fields, to address the requirements of the Project; shall submit a list of the names of the consultants to be employed by the Architect to the Owner in advance, for Owner's review and approval, which approval shall not be unreasonably withheld; and shall require such professional engineers to place their seal, name and signature on the Drawings and Specifications prepared by them. Said Construction Documents shall comply with all laws, statutes, ordinances, codes, rules and regulations currently in effect as of the dated of completion of the Construction Documents. Approval by the Owner shall not constitute approval of the means, techniques, or particular material recommended by the Architect or Architect's Consultants for the Project.

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project. The Architect shall endeavor to see that the contract documents include all code compliance, including but not necessarily limited to fire, building, health, TAS, and others of municipal, state or federal jurisdiction.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Construction Manager and Subcontractors; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) subject to review by Owner's legal counsel. The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall work with the Construction Manager to update the estimate for the Cost of the Work.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 CONSTRUCTION PROCUREMENT PHASE SERVICES

§ 3.5.1 GENERAL The Architect shall assist the Construction Manager in establishing a list of prospective subcontractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Construction Manager in (1) obtaining either competitive bids or proposals; (2) confirming responsiveness of bids or proposals; and (3) determining successful bids or proposals, if any.

### § 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed contract forms, revised General Conditions, Specifications and Drawings. The contract forms and revised General Conditions shall be furnished to Architect by Owner or Owner's legal representative.

§ 3.5.2.2 The Architect shall assist the Owner and Construction Manager in obtaining bids for the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders. The Architect shall obtain a minimum of three quotes for reproduction and shall use the lowest qualified bid obtained. The Owner shall reimburse the Architect for such expenses;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders. The Architect shall forward to the Owner the number of full sets of Construction Documents designated by the Owner simultaneously with forwarding the documents to general contractor bidders;
- .3 assisting in the organization and presentation of a pre-bid conference for prospective bidders held in adequate time to allow issuance of an addendum at least seven calendar days in advance of bid date to respond to issues raised at the pre-bid conference;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda. The Architect shall forward copies of each addendum to the Owner simultaneously with issuance to the Construction Manager; and
- .5 participating, if requested by Owner, in the organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 The Architect and Architect's Consultants shall review requests for substitutions and shall copy the Owner and Construction Manager in substitutions accepted for use in lieu of the specified product. Notification of acceptance of substitutions shall be included in Addenda.

### § 3.5.3 COMPETITIVE SEALED PROPOSALS

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed contract forms, revised General Conditions, Specifications and Drawings. The contract forms and revised General Conditions shall be furnished to Architect by Owner or Owner's legal representative.

- § 3.5.3.2 The Architect shall assist the Construction Manager in obtaining proposals by
- .1 procuring the reproduction of Proposal Documents for distribution to prospective subcontractors;
  - .2 organizing and participating in selection interviews with prospective subcontractors; and
  - .3 participating in negotiations with prospective subcontractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

### § 3.6 CONSTRUCTION PHASE SERVICES

#### § 3.6.1 GENERAL

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction current as of the date of this agreement, as amended by the Owner and agreed to in writing by Architect.

§ 3.6.1.2 The Architect shall advise and consult with the Owner. Instructions to the Construction Manager(s) may be forwarded through the Architect. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement unless otherwise modified by written amendment. The Owner and the Architect (Engineer) understand, acknowledge, and agree that the Architect (Engineer) shall be acting as an independent contractor at all times during the performance of this agreement and no provision or obligation expressed or implied in this agreement shall create an employment, agency, or fiduciary relationship. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the initial Contract for Construction Management Services and terminates on the date the final payment is made to the Construction Manager for the fully completed Work. However, the Architect shall be entitled to a Change in Services in accordance with Section 4.3.2 when Contract Administration Services extend 60 days after the date of Substantial Completion of the Work. For purposes of performance of Contract Administration, the Architect's Designated Representative, identified in 2.3, shall continue through the duration of Contract Administration Services, and may not be changed without written consent by the Owner.

#### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site not less than once per week while Work is in progress, and as often as necessary and appropriate to the stage of construction (with particular emphasis on foundation and structural work) to observe the site and Work; to require and schedule timely visits as appropriate by Architect's Consultants to observe the work of their specialty; to familiarize the Architect and Architect's Consultants with the progress and quality of the completed Work; and to determine for the Owner's benefit and in general if the Work is proceeding in such a manner that when completed it will be in accordance with the intent of the Contract Documents and construction schedule. The Architect shall attend all construction progress meetings (which shall be held not less than once weekly) in conjunction with, or in addition to visiting the site in satisfaction of other responsibilities. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work for the Project, since these are solely the Construction Manager's rights and responsibilities under the Contract Documents, but shall use reasonable care to guard the Owner against defects and deficiencies in the completed Work and the Construction Manager's failure to carry out the Work in accordance with the Contract Documents and the construction schedule. On the basis of on-site observations, the Architect shall keep the Owner informed of the progress and quality of the completed Work, and shall give prompt notice to the Owner in writing of any or all deviations from the Contract Documents in the Work or defects and deficiencies observed in the Work.

§ 3.6.2.1.1 The Architect shall provide services made necessary by major defects or deficiencies in the Work of the

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Construction Manager (s) or its agents, employees or subcontractors which through reasonable care the Architect should have discovered and promptly reported to the Owner but failed so to do. In addition, the Architect represents that he will follow the usual and customary standards of the profession in performing all services under this Agreement. Any defective design drawings or Specifications furnished by the Architect shall be promptly corrected by the Architect at no cost to the Owner. The Owner's approval, acceptance, use of or payment for all or any part of the Architect's services hereunder or the Project itself shall in no way diminish or limit the Architect's obligations and liabilities or the Owner's rights.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Architect shall interpret matters concerning performance of the Construction Manager under, and requirements of, the Contract Documents on written request of the Owner and shall not be liable for results of interpretations or decisions rendered. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure performance by the Construction Manager. The Owner shall have final authority on questions relating to aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner designates another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents. The Owner shall have final authority on questions relating to aesthetic effect, provided such authority is exercised in a way which is consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.6** Intentionally deleted.

**§ 3.6.2.7** The Architect shall be prepared to serve and shall serve when requested by the Owner as a witness in connection with any public hearing concerning the Project as part of this Basic Services.

**§ 3.6.2.8** The Architect shall prepare or provide a set of reproducible record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Construction Manager(s) to the Architect including, but not limited to, the location of water, sewer, telephone, electric, gas and any other utility lines. The Construction Manager shall certify these drawings as accurate.

**§ 3.6.2.9** The Architect shall provide services in connection with evaluating substitutions proposed by the Construction Manager and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

### **§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

#### § 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If required in order to thoroughly illustrate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager in accordance with the requirements of the Contract Documents.

#### § 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

#### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the

Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Construction Manager: (1) consent of surety or sureties, if any, for release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Construction Manager under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

#### ARTICLE 4 ADDITIONAL SERVICES

##### § 4.1

*(Paragraphs deleted)*

Paragraph Intentionally Deleted.

*(Table deleted)*

##### § 4.2 Paragraph Intentionally Deleted.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall, by mutual agreement of Owner and Architect, entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations after the date of Owner's acceptance of the Construction Drawings;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 intentionally deleted;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 intentionally deleted;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 intentionally deleted;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction.

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§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, explain the facts and circumstances giving rise to the need, and shall require the acceptance and written approval of the Owner prior to performance of the work. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service, except where more descriptive original Contract Documents or addenda could have rectified Change Orders or Construction Change Directives thereto;
- .4 Evaluating an extensive number of Claims submitted by the Owner's consultants, the Contractor or others in connection with the Work except where such extensive number of claims could have been rectified by more descriptive original Contract Documents or addenda thereto;
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after the date of Substantial Completion of the Work as established by the Certificate of Substantial Completion.

§ 4.3.3 The Architect shall provide  
(Paragraphs deleted)

all services necessary to complete and completely discharge its responsibilities under this Agreement .

§ 4.3.4 If the services covered by this Agreement have not been completed on or before one year from the date of the execution of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall with the Architect's assistance identify in a timely manner requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data with respect to existing buildings, other improvements

and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers when such services are requested by the Architect, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.9 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service, but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observation, inspection or investigation..

§ 5.10 The Owner and Construction Manager shall communicate through the Architect; except (1) as may otherwise be provided in the Contract Documents, (2) when direct communications have been specifically authorized, or (3) when such communication has been attempted and could not be reasonably be accomplished in a timely manner in consideration of the requirements of the Project. Where direct communication between Owner and Construction Manager has occurred without inclusion of the Architect, the Owner and Construction Manager shall promptly and jointly document the nature and result of the communication as well as the reason for the direct communication and shall provide a copy of said documentation to the Architect. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.11 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Construction Manager, including the General Conditions of the Contract for Construction.

§ 5.12 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Construction Manager to provide the Architect access to the Work wherever it is in preparation or progress.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost or, to the extent the Project is not completed, the latest estimate presented by the Architect to, and approved in writing by, the Owner, and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work, those portions of the Project which are designed or specified by consultants not engaged by Architect, or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; or competitive bidding,

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market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation, provided the same are identified and disclosed to Owner; to propose what materials, equipment, component systems and types of construction are to be included in the Contract Documents to keep the Project within the current approved budget; to propose reasonable adjustments in the program and scope of the Project to keep the Project within the current approved budget; and to propose for inclusion in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Owner shall have the right to review all proposals, complete with adequate professional advice from the Architect, and to approve before the Architect proceeds. Alternate bids shall not affect delivery of the project, unless the Owner so directs. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase by the Construction Manager for prime subcontractors has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, through no fault of the Architect, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the guaranteed maximum price provided by the Construction Manager, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time with no adjustment in the Architect's compensation;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect and Architect's Consultants, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's and Architect's Consultants' modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering

and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall apply only to those portions of Work for which Architect has received payment.

**§ 7.3.1** In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

**§ 7.4** Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 GENERAL**

**§ 8.1.1** The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the Construction Managers, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction current as of the date of this agreement, as amended by the Owner. The Owner or the Architect, as appropriate, shall require of the Construction Managers, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### **§ 8.2 MEDIATION**

**§ 8.2.1** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent litigation. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be conducted in accordance with the provisions of Section 154.023, Texas Civil Practice and Remedies Code. The request may be made concurrently with the filing of legal or equitable proceedings, but, in such event, mediation shall proceed in advance of legal or equitable proceedings, which shall be stayed pending mediation for a period of 20 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of resolution shall be the following:

*(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other *(Specify)*

§ 8.3 ARBITRATION – Deleted in its entirety.

#### ARTICLE 9 TERMINATION OR SUSPENSION

*(Paragraphs deleted)*

#### ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due it under the Agreement prior to suspension and any expenses incurred and due under terms of the Agreement in the interruption and resumption of the Architect's services, upon submitting and receiving an approved proposal to resume services to the Owner. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted at the mutual consent of the parties to the Agreement.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services upon submitting and receiving an approved proposal to the Owner. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated.



§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2007, General Conditions of the Contract for Construction, as amended by the Owner. In addition, "Work" as used in this Agreement and further in relation to Architect's services on the project, shall mean the construction and services as required by the Contract Documents.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 10.6 The Architect shall not knowingly specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project, the Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. Accordingly, the Architect shall furnish to the Owner without additional charge, a listing of persons or firms to which Architect's promotional materials were sent.. The Architect shall be given reasonable access to the completed Project to make such representations, but only at such times and dates as stipulated by the Owner's Designated Representative. However, the Architect's materials shall not include the Owner's confidential or proprietary information, nor shall it include any descriptive information unless such descriptive information is prior approved in writing by the Owner's Designated Representative. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 The Architect shall be responsible, with the assistance of the Owner, for preparation and timely submittal of documents required for approval or recording by all governmental agencies having jurisdiction over the Project except for the building permit which shall be the responsibility of others. The Architect shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by said governmental agencies at no additional charge to the Owner.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

*(Paragraphs deleted)*

*A stipulated sum of Four Hundred Fifteen Thousand Five Hundred Dollars and No Cents (\$415,500.00). Not included is A/V for the Museum of the American Railroad ("MARR") of Nineteen Thousand Two Hundred Fifty Dollars and No Cents (\$19,250.00), which sum is to be added if not provided by MARR.* § 11.2 Paragraph Intentionally Deleted.

§ 11.3 Prior to the commencement of any Additional Services during the course of the Project, including those under Section 4.3, the Architect shall submit to the Owner a written proposal containing the scope and estimated costs related thereto for approval by the Owner.

Additional Services are set forth in the proposal prepared by BOKA Powell dated October 15, 2009, attached hereto as Exhibit B and incorporated herein for all purposes.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Section 11.3, shall be the amount invoiced to the Architect with no mark up.

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Schematic Design Phase	percent (	%)
Design Development Phase	percent (	%)
Construction Documents Phase	percent (	%)
Bidding or Negotiation Phase	percent (	%)
Construction Phase	percent (	%)
Total Basic Compensation	percent (	%)

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate
Principal I	\$250.00
Principal II	\$200.00
Project Manager	\$160.00
Project Interior Manager	\$150.00

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Project Designer	\$160.00
Project Interior Designer	\$150.00
Project Architect	\$160.00
Professional Staff III	\$120.00
Professional Staff II	\$105.00
Professional Staff I	\$ 90.00
Clerical	\$ 75.00

## § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 transportation in connection with the Project, when such transportation is not a function of routine performance of duties of the Architect or Architect's Consultants in connection with the Project, and when such transportation extends beyond 50 miles from the project site; authorized out-of-town travel and substance, which shall be prior approved by the Owner's Designated Representative, and which reimbursements shall be governed by the same travel policies provided for Owner's employees according to current adopted Owner's policy. Prior to the event, the Architect shall request, and the Owner's Designated Representative shall provide the provisions and restrictions applicable to out-of-town travel reimbursements. Electronic communication reimbursable expense shall be limited to long-distance telephone or fax toll charges specifically required in the discharge of professional responsibilities related to the Project;
- .2 Long distance services;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 reproductions, specifically limited to progress prints prepared for presentation to Owner at each phase of progress, and final construction documents prepared for distribution at bidding phase, provided that the Architect has duly obtained at least three quotations from commercial printing firms and has chosen the best value for the Owner. Plots shall be limited to plotting of final documents, provided that the Architect has duly obtained at least three quotations from commercial firms offering plotting services, and has chosen the best value for the Owner. Standard form documents are reimbursable if bulk-purchase discounts and other privileges afforded the Architect are extended to the Owner. If licensed electronic document forms are provided in lieu of hard-copy standard forms and are furnished by the Architect, the Architect may charge as reimbursable up to fifty percent (50%) of the purchase price of the corresponding hard-copy documents, subject to restrictions and limitations of copyright provisions governing both documents. Postage and delivery of Instruments of Service are reimbursable provided the Architect duly considers all circumstances (including available time for assured delivery) of the required delivery and selects the best value for the Owner, which may require comparison of delivery costs offered by three or more sources or methods of delivery, which at minimum shall include US Mail. Courier service is acceptable only in circumstances requiring deadline-sensitive deliveries and not for the convenience of the Architect;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in writing in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested in writing by the Owner;
- .8 intentionally deleted;
- .9 intentionally deleted;
- .10 Site office expenses; and
- .11 Other similar Project-related expenditures, which are duly presented in advance and approved by the Owner's Designated Representative in writing. Telephone service charges, including office or cellular phones, WATTS or Metro line services or similar charges are not reimbursable. Toll road subscriptions or toll plaza receipts are not reimbursable. Meals or any other related expenses are not reimbursable unless incurred outside a 50-mile radius of the Project, and then only reimbursable subject to compliance with Owner Policy. Faxed transmissions not requiring long distance toll charges are not reimbursable.

The Architect shall be solely responsible for the auditing of all Reimbursable Expenses, including the Architect's, prior to submitting to Owner for reimbursement, and shall be responsible for the accuracy thereof. Any

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overpayment by the Owner for errors in submittals for reimbursement may be deducted from the Architect's subsequent payment for services.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus One and One-Tenth ( 1.1 ) of the expenses incurred.

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner's payment to Architect in accordance with Section 9.6 shall constitute payment for a licensing fee for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project.

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars and Zero Cents (\$ 0.00 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty ( 30 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)

Ten Percent (10%) per annum. Invoices remaining unpaid for an additional thirty (30) days (total of sixty (60) days) will result in a suspension of work pending receipt of payment or mutually acceptable settlement.

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect or other sums requested or paid to Contractors for the cost of changes in the Work other than those for which the Architect has been adjudged to be liable.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

#### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 12.1 The Texas Board of Architectural Examiners, 555 N. Lamar Blvd., Building H-117, Austin, Texas 78751 Phone: 512/458-1363 has jurisdiction over individuals licensed under the Architects Registration Law, Article 249A, VTCS."

§ 12.2 It shall be the duty of the Architect throughout the term of this Agreement as part of Basic Services, to make a prompt written record of all meetings, conferences, discussions, and decisions made between and/or among the Owner, Architect, and Contractor during all phases of the Project and concerning any material condition in the requirements, scope, performances, and/or sequence of the Work and to provide promptly a copy of all such records to the Owner.

#### ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents listed below:

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect

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User Notes:

Init.

.2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:

.3 Other documents:

*(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if a, forming part of the Agreement.)*

1. Exhibit A, Initial Information, attached hereto and incorporated herein for all purposes.
2. A201-2007 v:1.0 (4-14-09) Frisco insurance requirements dated 2/2009, General Conditions of the Contract for Construction, attached hereto and incorporated herein for all purposes.
3. Proposal prepared by BOKA Powell dated October 15, 2009, attached hereto as Exhibit B and incorporated herein for all purposes

This Agreement entered into as of the day and year first written above.

OWNER

City of Frisco, Texas

ARCHITECT

BOKA Powell, LLC

By:

*(Signature)*

*(Printed name and title)*

By:

*(Signature)*

*R. A. Bennett*  
**RANDREW BENNETT, PRINCIPAL**  
*(Printed name and title)*

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming		
§ 4.1.2 Multiple preliminary designs		
§ 4.1.3 Measured drawings		
§ 4.1.4 Existing facilities surveys		
§ 4.1.5 Site Evaluation and Planning (B203™–2007)		
§ 4.1.6 Building information modeling		
§ 4.1.7 Civil engineering		
§ 4.1.8 Landscape design		
§ 4.1.9 Architectural Interior Design (B252™–2007)		
§ 4.1.10 Value Analysis (B204™–2007)		
§ 4.1.11 Detailed cost estimating		
§ 4.1.12 On-site project representation		
§ 4.1.13 Conformed construction documents		
§ 4.1.14 As-Designed Record drawings		
§ 4.1.15 As-Constructed Record drawings		
§ 4.1.16 Post occupancy evaluation		
§ 4.1.17 Facility Support Services (B210™–2007)		
§ 4.1.18 Tenant-related services		
§ 4.1.19 Coordination of Owner's consultants		
§ 4.1.20 Telecommunications/data design		
§ 4.1.21 Security Evaluation and Planning (B206™–2007)		
§ 4.1.22 Commissioning (B211™–2007)		
§ 4.1.23 Extensive environmentally responsible design		
§ 4.1.24 LEED® Certification (B214™–2007)		
§ 4.1.25 Fast-track design services		
§ 4.1.26 Historic Preservation (B205™–2007)		
§ 4.1.27 Furniture, Furnishings, and Equipment Design (B253™–2007)		



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architecture  
interiors  
planning  
graphics

October 15, 2009

sent via email to: [rpatterson@friscotexas.gov](mailto:rpatterson@friscotexas.gov)

Mr. Ron Patterson  
City of Frisco  
6101 Frisco Square Blvd., 5<sup>th</sup> Floor  
Frisco, Texas 75034

**RE: Proposal for Beal Building Modifications / Master Planning-Phase 2  
Frisco, Texas**

Dear Mr. Patterson:

We are pleased to submit this Proposal for the performance of a multi-phase design and planning project for the City owned building referred to as the 'Beal Building' and located south of City Hall and at the SE corner of North Dallas Parkway frontage and Cotton Gin Road in Frisco, Texas.

**I. Project Description**

**PHASE 1:** \*under separate cover

Initial project is to provide temporary space for the Sci Tech Exhibit tenant to occupy and set up for the first exhibit starting about September 18 and running until end of 2009. This tenant will then vacate the space to allow for construction of a permanent home as part of Phase 2 (this) agreement.

**PHASE 2:**

- A.** Project to include the back 50,000 sf addition to the Beal Building and divided into separate functions as defined below. A new entrance at the West side of building will be used as a single new entry to the spaces described with appropriate signage for tenant identification.

**1. Sci-Tech Discovery Center**

- Welcoming area or Lobby (shared)
- Traveling Exhibit Space
- WOW Lab
- Demonstration Stage
- Party Space/classroom area
- Museum store
- Executive Director's office
- Development Administrator's Office
- Education Director's office
- Outreach Coordinator's office
- Multi-Use area
- Restrooms (shared)
- Storage

Dallas  
Fort Worth  
Austin  
Kansas City

- Mechanical
- Entry (shared)
- Approximately 10,000 sf
- Estimated occupant load = 272

## **2. Black Box Theater**

- Large flexible space for theater production
- Separate controlled entrance (shared)
- Ticketing area
- Seating: up to 100
- Public Space: 1,500 sf (shared)
- Performance Space: 3,000 sf
- Stage Support: 250 sf
- Performer Support/Dressing: 1,500 sf
- Production Support: 1,200 sf
- Offices: 250 sf
- Restrooms: 450 sf (shared)
- Rehearsal Space: 1,000 sf
- Approximately 10,000 sf

## **3. Museum of the American Railroad**

The following is a Scope of Work to distinguish the services provided by Train Museum Exhibit Designer and BOKA Powell for space to be provided within the Beal Building. Freeman Ryan Design (FRD) shall be identified as the 'Train Museum Exhibit Designer and BOKA Powell (BOKAP) is identified as Architect of Record and will be responsible for providing construction documents and specifications for the defined exhibit space and as defined below. FRD will be engaged by, and services compensated by, Museum of the American Railroad (MARR).

- Layout design of museum pieces, organization of exhibit space and event functions to be provided by FRD within the boundaries defined by BOKAP and agreed upon with MARR but anticipated to be approximately 20,000 sf.
- BOKAP to work with FRD to provide construction documentation of walls with interior fenestration of walls to be defined by FRD but documented by BOKAP. Also included in outside design definition will be ceiling materials and openings in both interior and exterior walls to accommodate the proposed design layout. BOKAP will provide power and lighting as needed to operate or showcase the museum pieces. Specific showcase or exhibit lighting design is to be provided by FRD (if not, this can be provided by Architect's lighting consultant) and included in the documents provided by BOKAP.
- All other elements of the Museum to be designed by BOKAP including areas such as entry lobby, offices, support spaces and other spaces otherwise referred to as 'back of house'. Building entry, shared lobby and public restrooms to be provided by BOKAP as part of their services to the City of Frisco as they will be shared space with other tenants of the building.



- BOKAP will coordinate and interact with FRD during design to define limits of the space to be provided for use by MARR and will maintain dialogue with FRD through documentation allowing FRD to review progress for design intent.
- Space provided to be about 20,000 sf.
- Some train cars will be exhibited within the space.
- Provide exhibit space, offices, classroom, support and back of house spaces along with restrooms, lobby, ticketing and entry (all shared spaces).

## **B. MASTER PLANNING**

1. Master Plan remainder of building for exhibition style use (approx. 100,000sf).
2. Provide Master Planning of existing site encompassing the existing Beal Building and parking to present future use options including possible Hotel and other uses that would compliment surrounding planned development and City of Frisco functions. Current site is planned to incorporate a proposed Rail Museum Building and park functions that will be included as part of the 43.6145 acres. We would review options and phase development for this portion of the planning exercise that would illustrate, in color, up to 2 full master plans.

Consultants not included as part of this Proposal:

- Fire Sprinkler (design modifications to be included with general construction)
- Kitchen/concessions
- Geotechnical and Field Testing
- Asbestos analysis and abatement (by Owner prior to permitting)
- FFE selection and procurement (office & administrative areas)

## **II. Scope of Services**

Our proposal for providing architectural design and documentation is outlined as follows;

- Site Plan, limited to directly around the building to define new entrance(s) and parking as may be required to satisfy codes.
- Conceptual Design for approval and review working with component user tenants to develop program for specific space.
- Construction documents with specifications including Theater Design, Lighting, structure as needed and MEP for the 50,000 sf space.
- Submission and coordination with the City of Frisco.
- Submission to State for Accessibility review.
- Construction Administration during the course of construction.
- Security System design for the limits of work within this building.
- IT system (Structured Cabling Design) for the three tenants identified.

**Deliverables to include**

- Prepare program with user groups and City of Frisco to future develop plan requirements.
- Preliminary Plan for review and discussion with user groups.
- Coordinate with jurisdictional review authorities for concept and other approvals.
- Prepare concept images/renderings for acceptance and approval as well as possible promotional material.
- Refine concept for final approvals and prepare Design Development documents to include material and required finishes.
- Based on approved Design Development Documents, prepare all required drawings and specifications, setting forth in detail, the requirements for construction of the Project, and for submission to governing authorities for review and approval.
- Coordinate with the work of the Consultant Team.
- Assist in the preparation of any necessary bidding information and bidding forms, should they be required for the project.
- Assist in evaluating bidder qualifications.
- Provide addenda and clarifications as required.
- Attend pre-bid conferences.
- Assist in bid evaluation.
- Review and approve or reject all Contractor submittals such as shop drawings, product data and samples, for the purpose of determining whether or not the submittals are in compliance with the requirements of the Construction Documents.
- Prepare revisions, modifications and construction bulletins as required.
- Make site visits at appropriate intervals during construction, typically on a weekly basis, and other visits as needed.
- Make recommendation to Owner as to the amounts due to the Contractor and execute certificates for payment in such form as may be specified to the Owner.
- Conduct jobsite observations of all installation of the Work to determine Substantial Completion and Final completion for the Project and review the Contractor's punch list requirements of the Work and supplement such punch list with observations of the Consultant.

**III. Compensation**

**Sci-Tech Discovery Center:**

Architecture: .....	\$40,000.00
MEP: .....	\$11,000.00
Structural .....	\$3,000.00

**Black Box Theater:**

Architecture: .....	\$65,000.00
MEP: .....	\$17,600.00
Theater Consultant: .....	\$22,000.00
Audio/Video/Acoustics .....	\$20,200.00
Structural .....	\$9,500.00
Civil/Landscape .....	\$10,000.00

## Museum of the American Railroad: (MARR)

Architecture: .....	\$90,000.00
MEP: .....	\$32,500.00
Acoustics/Noise Control.....	\$19,800.00
Structural .....	\$3,000.00

Sub-total:.....\$343,600.00

## Other Services for building scope

IT (Structured Cabling Design).....	\$6,900.00
Security .....	\$10,000.00

Sub-total:.....\$16,900.00

## Master Planning:

Interior Master Planning: .....	\$25,000.00
Site Planning.....	\$30,000.00

Sub-total.....\$55,000.00

**TOTAL.....\$415,500.00**

Not included;

A/V for the MARR.....\$19,250

To be included if not provided by MARR

**IV. Additional Services**

The project team endeavors to minimize and/or eliminate the need for additional services. Our goal is not to create additional service cost items for the client, but to provide a fee and scope of services that is comprehensive based upon the project understanding that we have at the time of Proposal submission. As scope requirements change and are identified by the project team, we will notify you of the need, and its projected design cost and schedule impact, prior to initiating any additional services activity. Upon your approval, we will commence the work.

Additional services would include, but are not limited to models, and fees paid for securing approval of jurisdictional authorities. Changes to documents after client approval of that phase of work, re-drawing portions of the project due to design scope changes that are not construction budget related or other services not included as basic services in this Proposal.

## Hourly Rate Schedule

Principal I.....	\$250.00
Principal II.....	\$200.00
Project Manager.....	\$160.00
Project Interior Manager.....	\$150.00
Project Designer.....	\$160.00
Project Interior Designer.....	\$150.00

Project Architect.....	\$160.00
Professional Staff III .....	\$120.00
Professional Staff II .....	\$105.00
Professional Staff I .....	\$90.00
Clerical.....	\$ 75.00

## V. Payment

Invoices will be issued monthly based on the percentage complete of Basic Services on behalf of the project, any additional services on an hourly basis, and reimbursable expenses incurred during the previous month. Payment for services and reimbursable expenses will be due within thirty (30) days of Owner's receipt of invoice. Invoices remaining unpaid for an additional thirty (30) days (total of sixty (60) days) will result in a suspension of work pending receipt of payment or mutually acceptable settlement.

## VI. Reimbursable Expenses

Reimbursable expenses are in addition to Basic Compensation and shall be at a multiple of one and one-tenth (1.1) times the actual expense. Reimbursable expenses include expenditures for travel within the DFW area, long distance telephone calls, printing and printing supply costs, plotting, out-of-house renderings, photography, fees paid for securing approval of authorities, and postage, delivery and handling of all materials.

## VII. Conclusion

Thank you for the opportunity to submit this Proposal. Your signature below indicates your authority to initiate this Agreement and acceptance of all conditions herein stated and shall authorize BOKA Powell to proceed with this project. Upon approval, please sign and return one copy to our office. This Proposal is valid for a period of 12 months.

Sincerely,

**BOKA Powell, LLC**



Patrick K. Magill, AIA, NCARB  
Associate Principal

Approved and Accepted:

This \_\_\_\_\_ day of October, 2009.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name /Title